



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/186,856 11/05/98 GORDON

M GOR-001

QM12/1205

DAVID P GORDON
65 WOODS END ROAD
STAMFORD CT 06905

EXAMINER

NGUYEN, B

ART UNIT

PAPER NUMBER

3713

DATE MAILED:

12/05/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/186,856

Applicant(s)

GORDON ET AL.

Examiner

Binh-An D Nguyen

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 22 September 2000.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

Art Unit: 3713

DETAILED ACTION

1. The Amendment filed in Paper No. 7, September 22, 2000 has been received. Currently, claims 1-21 are pending in this application. Acknowledgment has been made.

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naka et al.(5,405,151) in view of Stamper et al. (5,080,377) or Curchod (5,354,063).**

Naka et al. teach a multiplayer electronic game for use with a processing apparatus having a graphical display and input means for receiving input from at least two players simultaneously, comprising player location means for associating a game location with each player; split screen means for dividing the

Art Unit: 3713

graphical display into separate portions of each player; individual action means for requiring said at least two players to act individually at certain points in the game; joint action means for requiring at least two players to act jointly with each other at certain points in the game; joint action means require at least two players to act jointly in separate locations while said split screen means divides the display into separate portion for each player; joint action means requires at least two players to act jointly in the same location; no player can complete the game without all players also completing the game; character generator means for generating a separate character or pointer for each player; joint action required by said joint action means includes a plurality of different kinds of joint actions; cooperative action means for requiring the two players to act cooperatively with each other. See Figures 7, 25A-30, 41, and 42; column 2, lines 6-34; column 5, lines 25-61; column 17, lines 3-44; and column 18, lines 65 to column 24.

Naka et al., however, do not explicitly teach split screen means being responsive to player location means such that when two players' game locations are within a preset range, the separate portions of the graphical display for the two players are merged into a single portion of the graphical display, and when the two players' game locations are outside the preset range, the graphical display for the two players is split into separate portions; joint action means requires at least two players to act jointly in the same location while said split means merges the display into a single portion.

Art Unit: 3713

Stamper et al. teach a video display system having split screen means being responsive to playing field location means such that when playing token and game the control component 16 are within a preset range, the separate portions of the graphical display for the two are merged into a single portion of the graphical display, and when the two components' game locations (of playing token and control component) are outside the preset range, the graphical display for those two components is split into separate portions; joint action means (when the playing token is near the control component) requires at least two components (playing token and control component) to act jointly in the same location (at the bottom of playing field) while said split means merges the display into a single portion. See Figures 1 and 2a-2c; and columns 1-6.

Curchod teaches a double position golf simulator with split screen means being responsive to player location means such that when two players' game locations are within a preset range (when their golf balls are near the same hole), the separate portions of the graphical display for the two players are merged into a single portion of the graphical display, and when the two players' game locations are outside the preset range (when the golf balls are near different holes), the graphical display for the two players is split into separate portions; at least two players to act jointly (playing at the same hole) in the same location while said split means merges the display into a single portion. See Figures 2-3 and columns 2:64-66, 3:45-54.

Art Unit: 3713

It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Naka et al.'s with Stamper et al.'s video display system or Curchod's double position golf simulator for a better multiplayer electronic games utilizing split screens.

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Naka et al. and Stamper et al. or Curchod as applied to claim 18 above, and further in view of Logg (Re 35,314).

Naka et al. and Stamper et al. or Curchod teach all limitations in claim 18. Logg teaches cooperative action means includes sharing resources to other players, see column 11, lines 46-47 and column 12, lines 1-20. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Naka et al.'s and Stamper et al.'s or Curchod's with a multi-player video game of Logg to come up with a variety of cooperative actions in a multiplayer video game.

6. Applicant's arguments filed in Paper No. 7 have been fully considered but they are not persuasive. Naka et al., Stamper et al. or Curchod, and Logg, in combination, do teach all limitations claimed by the applicants as stated above. Regarding applicant's arguments on the limitation of requiring the two players to act cooperatively, Naka's cooperative mode does require the two characters to stay together as close as possible

Art Unit: 3713

(20:44-68, 21:1-30), this limitation also has been taught by Logg (Abstract and columns 1-3).

7. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it is obvious to one of ordinary skill in the art to combine a multi-player cooperative and competitive video game of Naka et al. with either split screen mode, as taught by Stamper et al. or Curchod, to come up with a better multi-player electronic game that allows the players (participants) to visualize related two aspect of the game.

8. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a

Art Unit: 3713

reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D Nguyen whose telephone number is 703-305-5713. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 703-308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-


Art Unit: 3713

305-3580 for regular communications and 703-308-7768 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

A handwritten signature in black ink, appearing to be "BN" followed by a stylized flourish.

BN

A handwritten signature in black ink, appearing to be "J. Harrison" followed by a long horizontal line.

JESSICA J. HARRISON
PRIMARY EXAMINER

ATTACHMENT TO AND MODIFICATION OF
NOTICE OF ALLOWABILITY (PTO-37)

(November, 2000)

Best Available Copy

NO EXTENSIONS OF TIME ARE PERMITTED TO FILE CORRECTED OR FORMAL DRAWINGS, OR A SUBSTITUTE OATH OR DECLARATION, notwithstanding any indication to the contrary in the attached Notice of Allowability (PTO-37).

If the following language appears on the attached Notice of Allowability, the portion lined through below is of no force and effect and is to be ignored¹:

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE **THREE MONTHS** FROM THE "DATE MAILED" of this Office action. Failure to comply will result in ABANDONMENT of this application. ~~Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).~~

Similar language appearing in any attachments to the Notice of Allowability, such as in an Examiner's Amendment/Comment or in a Notice of Draftperson's Patent Drawing Review, PTO-948, is also to be ignored.

¹ The language which is crossed out is contrary to amended 37 CFR 1.85(c) and 1.136. See "*Changes to Implement the Patent Business Goals*", 65 *Fed. Reg.* 54603, 54629, 54641, 54670, 54674 (September 8, 2000), 1238 *Off. Gaz. Pat. Office* 77, 99, 110, 135, 139 (September 19, 2000).